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# LAW ENFORCING OFFICERS IN NORTH CAROLINA

ALBERT COATES\*

## PART ONE

In the year 1663 King Charles of England granted the province of Carolina to "Edward, Earl of Clarendon; George, Duke of Albemarle; William Lord Craven, John Lord Berkley, Anthony Lord Ashly, Sir George Carteret, Sir William Berkeley, Sir John Colleton, their heirs and assigns." The early settlers and their successors lived under the rule of the Lords Proprietors until 1729, under the rule of the Crown until 1776, under the rule of their own elected leaders after 1776. Under this 250 years of rule by Proprietors, King and People, North Carolinians have built on one land a pyramid of overlapping town, township, county, state and federal governmental units. This means that we live under criminal laws made by city councilmen, county commissioners, state legislators and federal congressmen; that one who commits a crime may be *arrested* by town policemen, township constables, county sheriffs, state patrolmen, United States marshals or other federal agents; *prosecuted* by city, county, state or federal prosecuting attorneys; *sentenced* by city, county, state or federal judges; *jailed* by city, county, state or federal jailers. This means that all law enforcing officers charged with the investigation of crime and the apprehension of criminals are directly concerned with the structure of their respective organizations, the territorial limits within which they may operate and the laws governing their operations.

Their work does not stop with bringing the person accused into the custody of the law; the thoroughness of their investigations and the accuracy of their findings may be examined successively by the committing magistrate when he determines whether to bind over or discharge, by the solicitor when he determines whether to prosecute or not to prosecute, by the grand jury when it decides whether to return a true bill or no true bill, by the trial jury when it brings in a verdict of guilty or not guilty, by the judge when he pronounces sentence, by the parole commissioner who recommends to the Governor a pardon or parole.

This article undertakes to outline (1) the development of these groups in North Carolina, (2) the territorial limits within which they operate, (3) their efforts at coördination under the existing law.

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## AGENCIES FOR INVESTIGATION AND ARREST

*The City Police.* The policeman came into North Carolina with the rise and growth of cities and towns where the concentration of people created special law enforcement problems. In different cities and towns he was called the "town constable," the "town marshal," the "town policeman."<sup>1</sup> The word "police" is now the accepted name for town and city law enforcing officers.<sup>2</sup>

"Night watchmen" were forerunners of modern police officers. The Laws of 1822 authorized the commissioners of the town of New Bern "to class the free white males, inhabitants of said town, over the age of eighteen years, into companies of five or more for the purpose of watching said town at night."<sup>3</sup> As late as 1870 Charlotte was authorized to call its citizens to service on the night watch alphabetically or by lot.<sup>4</sup> These part time watchmen gradually gave way to full time policemen. And today in around three hundred cities and towns in North Carolina police forces vary from one to over one hundred and add up to a total of around twenty-five hundred full time town and city law enforcing officers.

*The County Sheriff.* The sheriff came into North Carolina with the organization of the county, and from the beginning he has been the county's principal law enforcing officer.<sup>5</sup> The increase of counties has increased the number of sheriffs from one to one hundred. These

<sup>1</sup> For example, special laws provided for a town constable in Fayetteville, Laws N. C. 1787, c. 29; a town marshal in Asheville, Laws N. C. 1862-63, c. 47; town police in Charlotte, Priv. L. N. C. 1870-71, c. 109, §31. The constable, sometimes appointed by the town commissioners, Priv. L. N. C. 1862-63, c. 47, sometimes elected, Priv. L. N. C. 1874-75, c. 113, served civil as well as criminal process, Priv. L. N. C. 1879, c. 22, and in some cases collected taxes, Priv. L. N. C. 1868-69, c. 122. The constable usually was compensated by a fee system, regulated by the town commissioners, Priv. L. N. C. 1868-69, c. 79. For modern powers of the town constable to execute civil and criminal process and collect taxes, see N. C. CODE ANN. (Michie, 1935) §§2638-2640. The marshal, usually appointed, Priv. L. N. C. 1862-63, c. 47, was sometimes authorized to collect town taxes, and was also paid on a fee basis, fixed by the commissioners, Priv. L. N. C. 1870-71, c. 109. The early town police were frequently given the same powers and duties as constables, Priv. L. N. C. 1870-71, c. 109, or marshals, Priv. L. N. C. 1872-73, c. 62, and were paid small salaries, e.g., \$30.00 a month in Newbern, Priv. L. N. C. 1879, c. 42. Frequent provisions authorized the appointment of extra police when necessary, the compensation not to exceed \$1.00 per day. Priv. L. N. C. 1879, c. 42.

<sup>2</sup> N. C. CODE ANN. (Michie, 1935) §2641 (provides for the appointment of town police by the town commissioners).

<sup>3</sup> Laws N. C. 1822, c. 147.

<sup>4</sup> Priv. L. N. C. 1870-71, c. 109, §31. (The aged and infirm were exempted from service on the "watch.").

<sup>5</sup> The sheriff is a constitutional officer elected for a term of two years, N. C. CODE ANN. (Michie, 1935) §3925; N. C. CONST., Art. IV, §24. Qualifications: at least 21 years of age and resident in the county for one year immediately preceding election; must not be a member of the general assembly, a practicing attorney, or a former sheriff who has failed to account for tax collections. N. C. CODE ANN. (Michie, 1935) §3926.

sheriffs are assisted by deputies<sup>6</sup> ranging from one or two in smaller counties to fifty or more in the larger counties, adding up to a total of around nine hundred officers—most of them in part time service. Along with the sheriff and his deputies came the constable, chosen first by districts,<sup>7</sup> then by townships,<sup>8</sup> adding up to more than one thousand—most of them in part time service. In later days some counties have added the rural police.<sup>9</sup> Of these two thousand and more sheriffs, deputy sheriffs, constables and rural police, perhaps five hundred may be classed as full time county law enforcing officers.

*The State Patrolman.* The state patrolman in North Carolina followed the automobile and the statewide system of hard surfaced roads to promote law and safety on the highways.<sup>10</sup> The number has increased from thirty-six in 1929 to one hundred and twenty in full time law enforcement work in 1935.<sup>11</sup> Add to them the forest wardens,<sup>12</sup> fisheries commissioners and inspectors,<sup>13</sup> game wardens and their deputies,<sup>14</sup> bank examiners,<sup>15</sup> the superintendent of weights and measures and his inspectors and deputies,<sup>16</sup> together with the state militia,<sup>17</sup> and further hundreds of officials with incidental powers to investigate crime and arrest criminals are brought to the tasks of law enforcement on a part time basis.

*Federal Officers.* Beginning with United States marshals<sup>18</sup> and their deputies serving in their respective districts within the state, the federal government has conceived and brought forth a multiplicity of specialized agencies to enforce particular branches of the federal law: the Federal Bureau of Investigation in the Department of Justice,<sup>19</sup>

<sup>6</sup> The sheriff's right to appoint deputies is a common law power; a statute providing that "no sheriff shall let to farm in any manner, his county, or any part of it," N. C. CODE ANN. (Michie, 1935) §3946, does not abrogate this right to appoint deputies to assist him. *Cansler v. Penland*, 125 N. C. 578, 34 S. E. 638 (1899).

<sup>7</sup> Elected annually from each "captain's district" (a territorial subdivision for militia organization purposes, N. C. REV. CODE of 1854, c. 70, §15) and from each town district. N. C. REV. CODE of 1854, c. 24.

<sup>8</sup> Township constables elected by voters of a township for two years, N. C. CODE ANN. (Michie, 1935) §971; N. C. CONST. Art. IV, §24.

<sup>9</sup> Rural police, usually authorized to enforce criminal laws generally and to work under supervision of sheriff or sheriff and county commissioners. Examples are: Pub. Loc. L. N. C. 1917, c. 195 (Lee County); c. 214 (Robeson County); c. 664 (Mecklenburg County).

<sup>10</sup> P. L. N. C. 1929, c. 218.

<sup>11</sup> Provision for one captain and thirty-six patrolmen, P. L. N. C. 1918, c. 218. Personnel increased to 121 patrolmen (the captain and 120 patrolmen) P. L. N. C. 1935, c. 324, §1; N. C. CODE ANN. (Michie, 1935) §3846(m m m).

<sup>12</sup> N. C. CODE ANN. (Michie, 1935) §6131.

<sup>13</sup> N. C. CODE ANN. (Michie, 1935) §1885.

<sup>14</sup> N. C. CODE ANN. (Michie, 1935) §2141(w)(x)(z)1.

<sup>15</sup> N. C. CODE ANN. (Michie, 1935) §223(e).

<sup>16</sup> N. C. CODE ANN. (Michie, 1935) §8064(m).

<sup>17</sup> N. C. CODE ANN. (Michie, 1935) §§6791-6895(b).

<sup>18</sup> 30 STAT. 487 (1898), 28 U. S. C. A. §491 (1928).

<sup>19</sup> 43 STAT. 1027 (1925), 5 U. S. C. A. §300 (1927).

the Division of Secret Service in the Treasury Department,<sup>20</sup> the Division of Inspection in the Post Office Department,<sup>21</sup> the Bureau of Narcotics in the Treasury Department,<sup>22</sup> the Alcohol Tax Unit in the Bureau of Internal Revenue,<sup>23</sup> and a score of others.<sup>24</sup>

*Private Police.* To the public police may be added the private police whom the Governor is authorized by law to appoint on the application of any steam or electric railroad corporation, electric or water power company, or construction or manufacturing company.<sup>25</sup> Other laws deputize passenger train conductors, depot agents,<sup>26</sup> special police in some state institutions<sup>27</sup>—all of whom are empowered to enforce the law in specific places. Along with these public and private agencies, the private citizen still retains his ancient privilege to arrest for crime.<sup>28</sup>

### TERRITORIAL LIMITS

*City Police.* Early laws empowered the police to enforce city ordinances and state laws within city limits.<sup>29</sup> This power has been gradually extended: by local laws in some cities to particular places beyond city limits where special law enforcement problems exist—municipal

<sup>20</sup> Organization and duties set out in U. S. GOVERNMENT MANUAL, p. 21.

<sup>21</sup> 21 STAT. 374 (1881), 39 U. S. C. A. §692 (1928).

<sup>22</sup> U. S. GOVERNMENT MANUAL, p. 19; see 43 STAT. 657 (1924), 21 U. S. C. A. §177 (1927).

<sup>23</sup> U. S. GOVERNMENT MANUAL, p. 16.

<sup>24</sup> Additional federal law enforcing agencies are: Special Intelligence Unit under the Bureau of Internal Revenue (investigates violations of internal revenue laws), U. S. GOVERNMENT MANUAL, p. 16; the Immigration and Naturalization Service (enforces immigration laws), 43 STAT. 1049 (1925), 8 U. S. C. A. §110 (1927); the Coast Guard (enforces customs laws and prevents smuggling), U. S. GOVERNMENT MANUAL, p. 19; the Customs Agency Service (enforces customs laws) U. S. GOVERNMENT MANUAL, p. 19. For description of other agencies charged with enforcement of special laws under different federal departments and bureaus, see U. S. GOVERNMENT MANUAL.

<sup>25</sup> N. C. CODE ANN. (Michie, 1935) §§3484-3488.

<sup>26</sup> N. C. CODE ANN. (Michie, 1935) §3483.

<sup>27</sup> Special police may be appointed to enforce the law on the grounds of state hospitals, the state school for the deaf, and the Caswell Training School. N. C. CODE ANN. (Michie, 1935) §6181.

<sup>28</sup> "Every person present at any riot, rout, affray or other breach of the peace, shall endeavor to suppress and prevent the same and, if necessary for that purpose, shall arrest the offenders." N. C. CODE ANN. (Michie, 1935) §4542. "Every person in whose presence a felony has been committed may arrest the person whom he knows or has reasonable ground to believe to be guilty of such offense. . . ." N. C. CODE ANN. (Michie, 1935) §4543. "All persons are authorized to break open a house to prevent a felony about to be committed therein." N. C. CODE ANN. (Michie, 1935) §4545.

<sup>29</sup> For example, see Laws N. C. 1858-59, c. 197, authorizing city law enforcing officers to enforce ordinances and to exercise within the city limits the same powers of a peace officer as the sheriff. In *Sossamon v. Cruse*, 133 N. C. 470, 45 S. E. 757 (1903) a policeman was held liable in civil action for damages for assault when he followed and arrested plaintiff outside the corporate limits of the town for breach of a town ordinance. In *Martin v. Houck*, 141 N. C. 317, 54 S. E. 291 (1906), a policeman was held liable in action for false imprisonment and unlawful arrest when he took plaintiff into custody outside city limits.

property,<sup>30</sup> parks, water and sewer lines, street railways,<sup>31</sup> graded school districts,<sup>32</sup> cemeteries,<sup>33</sup> by local laws in other cities to all surrounding territory—for one-half mile beyond city limits,<sup>34</sup> for one mile,<sup>35</sup> to the township line,<sup>36</sup> to the county line,<sup>37</sup> by informal agreement in some counties where the sheriff appoints police officers as special deputies so as to permit them to make arrests anywhere within the county; by a statewide law in 1917 authorizing city police to enforce city ordinances regulating sanitation and providing for the protection of city property within one mile of the city limits and all municipally owned water, sewer, and electric light lines and rights of way, street railways or extensions operating under a city franchise, and all city property and rights of way wherever located.<sup>38</sup> Practical considerations have thus led to repeated extensions of the territorial jurisdiction of city police.

*County Sheriff, Deputies and Constables.* Early laws empowered the sheriff to enforce criminal laws within county limits.<sup>39</sup> Later laws extended this power to cover "rivers, bays and creeks adjoining thereto." In some places special acts extend this power beyond county lines.<sup>40</sup> In 1935 sheriffs and bonded deputies were authorized to follow fleeing felons beyond county lines and arrest them anywhere within the state.<sup>41</sup> The constable, whose law enforcing powers were once thought to be

<sup>30</sup> *E.g.*, Priv. L. N. C. 1907, c. 39 (Newton police jurisdiction extended to include municipally owned property outside corporate limits).

<sup>31</sup> *E.g.*, Priv. L. N. C. 1905, c. 371 (Greensboro police jurisdiction extended to include city park, water or sewer lines, and tracks or right of way of Greensboro Electric Co. or successor).

<sup>32</sup> *E.g.*, Priv. L. N. C. 1907, c. 39. (Newton police jurisdiction extension).

<sup>33</sup> *E.g.*, Priv. L. N. C. 1905, c. 201. (Mount Olive police jurisdiction extended to include cemeteries outside city limits).

<sup>34</sup> *E.g.*, Priv. L. N. C. 1905, c. 343 (Goldsboro).

<sup>35</sup> *E.g.*, Priv. L. N. C. 1889, c. 101 (Charlotte). Sometimes, a law would prescribe boundaries for police jurisdiction extending beyond the corporate limits as, *e. g.*, Priv. L. N. C. 1897, c. 19 (extending Salem police jurisdiction over a described area).

<sup>36</sup> *E.g.*, Priv. L. N. C. 1931, c. 8.

<sup>37</sup> *E.g.*, P. L. N. C. 1865, c. 27, §3 (Fayetteville police empowered to act "not only in the town of Fayetteville, but elsewhere in the vicinity of said town in the county of Cumberland").

<sup>38</sup> P. L. N. C. 1917, c. 136, sub-c. 5, §2; N. C. CODE ANN. (Michie, 1935) §2790.

<sup>39</sup> N. C. CODE ANN. (Michie, 1935) §3936. In *Stancill v. Underwood*, 188 N. C. 475, 124 S. E. 845 (1924), it was held that a warrant issued in one county would not have extraterritorial effect, so that it might be served in another county, unless it had the indorsement of a justice of the peace or other authorized officer of the second county.

<sup>40</sup> *Supra* note 39; see Priv. L. N. C. 1935, c. 167. Three counties join in the village of Linville Falls—Avery, Burke, and McDowell. Sheriff or deputy of any of the three counties may arrest or serve warrants anywhere within two miles of the common corner.

<sup>41</sup> N. C. CODE ANN. (Michie, 1935) §4544(1).

limited to the township which elected him, was held in *State v. Corpening*<sup>42</sup> to have the power to enforce criminal laws throughout the county.<sup>43</sup>

*State Patrolmen and Other Agencies.* From its origin in 1929 the state patrol has had power to enforce all laws and regulations respecting the use of motor vehicles upon the highways anywhere within the state, irrespective of county lines.<sup>44</sup> In 1935 its statewide jurisdiction was extended to include "arrests of persons accused of highway robbery, bank robbery, murder or other crimes of violence."<sup>45</sup> Special police appointed at state hospitals, school for the deaf and Caswell Training School have the same powers in enforcing state laws on the institution grounds as city police;<sup>46</sup> election officials may arrest for violations of election laws at polling places;<sup>47</sup> forest wardens are authorized to exercise the same power as sheriffs within state forests for the enforcement of criminal laws relating to forests and real estate.<sup>48</sup>

Other special law enforcing officers are empowered to enforce particular laws throughout the state: game wardens are empowered to arrest for violations of state game laws;<sup>49</sup> the fisheries commissioner, assistants and inspectors, for violations of fisheries laws committed in their presence;<sup>50</sup> state bank examiners for violations of state banking laws;<sup>51</sup> the superintendent of weights and measures, deputies and inspectors, for violations of the weights and measures laws.<sup>52</sup>

*Federal Officers.* The United States marshal is authorized to enforce federal laws within his federal judicial district.<sup>53</sup> The Federal Bureau of Investigation and other federal law enforcing agencies transcend state lines. In practice their agents are usually assigned to districts covering one or more states. But by statute they are authorized to operate throughout the United States.<sup>54</sup> The Federal Bureau of Investigation is authorized to enforce all federal criminal laws except

<sup>42</sup> 207 N. C. 805, 178 S. E. 564 (1935). (The constable of a township in Forsyth County attempted to make an arrest in Winston-Salem—outside of the township by which he was elected but within the county. On prosecution of defendant for resisting an officer, held that a township constable is authorized to arrest anywhere in the county in which his township lies.)

<sup>43</sup> Rural police, although generally assigned to patrol particular rural areas, are empowered to enforce laws anywhere in the county. *Supra* note 9.

<sup>44</sup> N. C. CODE ANN. (Michie, 1935) §3846(b b b).

<sup>45</sup> N. C. CODE ANN. (Michie, 1935) §3846(o o o).

<sup>46</sup> N. C. CODE ANN. (Michie, 1935) §§6181, 6182.

<sup>47</sup> N. C. CODE ANN. (Michie, 1935) §5933.

<sup>48</sup> N. C. CODE ANN. (Michie, 1935) §6131.

<sup>49</sup> N. C. CODE ANN. (Michie, 1935) §2141(w) (x) (z) 1.

<sup>50</sup> N. C. CODE ANN. (Michie, 1935) §1885.

<sup>51</sup> N. C. CODE ANN. (Michie, 1935) §223(e).

<sup>52</sup> N. C. CODE ANN. (Michie, 1935) §8064(m).

<sup>53</sup> 30 STAT. 487 (1898), 28 U. S. C. A. §491 (1928); *In re Anderson*, 94 Fed. 487 (C. C. N. C. 1899).

<sup>54</sup> 48 STAT. 1008 (1934), 5 U. S. C. A. §300a. (1935) (agents of Federal Bureau of Investigation authorized to make arrests and serve warrants in United States; also authorized to carry firearms).

those specifically assigned to other federal agencies.<sup>55</sup> Important among these laws are: the Federal Kidnaping Act;<sup>56</sup> White Slave Traffic Act;<sup>57</sup> laws against bank robbery involving national banks, member banks of the Federal Reserve System, and banks insured in Federal Deposit Insurance Corporation;<sup>58</sup> National Stolen Property Act;<sup>59</sup> National Motor Vehicle Theft Act;<sup>60</sup> laws against larceny from interstate shipments;<sup>61</sup> federal extortion laws;<sup>62</sup> laws concerning crimes on Government Reservations;<sup>63</sup> and laws against interstate flight to avoid prosecution or testifying.<sup>64</sup>

The Division of Secret Service is authorized to suppress counterfeiting and forgery of federal and foreign government obligations, securities and coins; is charged with the protection of the President and his family and the President-elect; is from time to time directed to enforce acts relating to the Treasury Department, such as the World War Adjusted Compensation Act.<sup>65</sup>

The Division of Inspection of the Post Office Department is charged with enforcing the laws relating to interception or tampering with the mails, depredations upon the mails and losses therein, and violations of

<sup>55</sup> U. S. GOVERNMENT MANUAL, p. 42.

<sup>56</sup> Transportation of kidnaped person (except minor kidnaped by parent) in interstate commerce is punishable by imprisonment or death if the jury so recommends unless the victim has been released unharmed. Failure to release victim of kidnaping within seven days creates rebuttable presumption of interstate transportation. 47 STAT. 326 (1934), 18 U. S. C. A. §408a (1935).

<sup>57</sup> Transporting, inducing or causing a woman to be transported in interstate commerce for immoral purpose punishable by fine of not more than \$5,000 or imprisonment not more than five years, or both. 36 STAT. 825, 826, 827 (1910), 18 U. S. C. A. §§397-404 (1927).

<sup>58</sup> Punishment: fine of not more than \$5,000 and imprisonment not more than twenty years, or both. If in such robbery any person is assaulted or his life put in jeopardy by a dangerous weapon: fine from \$1,000 to \$5,000 and imprisonment from five to twenty-five years, or both. 12 U. S. C. A. §588a, b, c, d. (1935).

<sup>59</sup> Transportation in interstate commerce of stolen property of the value of \$5,000 or more is punishable by a fine of not more than \$10,000 or imprisonment for not more than ten years, or both. 18 U. S. C. A. §§413-419 (1935).

<sup>60</sup> Transportation in interstate commerce of a stolen motor vehicle is punishable by fine of not more than \$5,000 or imprisonment for not more than five years, or both. 41 STAT. 324 (1919), 18 U. S. C. A. §408 (1927).

<sup>61</sup> Larceny of goods forming part of interstate shipment is punishable by a fine of not more than \$5,000 or imprisonment for not more than ten years, or both. 47 STAT. 773 (1933), 18 U. S. C. A. §409 (1935).

<sup>62</sup> Extortion under threat of informing or as consideration for not informing against any violation of United States laws: fine up to \$2,000 or imprisonment for not more than one year, or both. 35 STAT. 1114 (1909), 18 U. S. C. A. §250 (1927). Use of United States mails or use of interstate communications to transmit threat to injure with intent to extort money, punishable by fine of not more than \$5,000 or imprisonment for not more than twenty years, or both. 49 STAT. 427, 18 U. S. C. A. §338a (1935); 48 STAT. 781 (1934), 18 U. S. C. A. §408d (1935).

<sup>63</sup> See 35 STAT. 1142 (1909), 18 U. S. C. A. §451 (1927); 35 STAT. 1145 (1909), 18 U. S. C. A. §468 (1927).

<sup>64</sup> 48 STAT. 782 (1934), 18 U. S. C. A. §408e (1935).

<sup>65</sup> Organization and duties set out in U. S. GOVERNMENT MANUAL, p. 21.



postal laws such as using the mails to defraud and promotion of lotteries.<sup>66</sup>

The Bureau of Narcotics is charged with "the investigation, detection, and prevention of violations of the federal narcotic laws."<sup>67</sup> The Alcohol Tax Unit is charged with the enforcement of federal laws regulating the manufacture, distribution, and sale of spirituous liquors, wines, beer, and industrial alcohol.<sup>68</sup>

*Private Police.* Some special law enforcing agencies are empowered to enforce criminal laws in particular places: station agents are authorized to make arrests in railroad stations, and train conductors are authorized to make arrests on passenger trains and on railroad rights of way;<sup>69</sup> railroad or corporation police exercise the same law enforcement powers in counties in which the corporation has property or through which its railroad lines run as the police in cities and towns.<sup>70</sup>

#### COÖPERATION OR CONFLICT

*In Overlapping Units.* Start with the policeman who is authorized to enforce criminal laws within the city, add the constable who is authorized to enforce criminal laws throughout the township in which the city lies, add the sheriff who is authorized to enforce the criminal laws throughout the county in which the township lies, add the highway patrolman who is authorized to enforce the motor vehicle laws and arrest persons accused of highway robbery, bank robbery, murder or other crimes of violence throughout the state in which the county lies, and altogether there are more than three thousand full time officers, supplemented by other thousands of part time officers, charged with the responsibility of enforcing the law and keeping the peace among three and one-half million people in 52,426 square miles of territory. They take their commands from different leaders and march to different rhythms. The stage is set for coöperation or conflict in the administration of the criminal law.

In some places conflicts are avoided by leaving the enforcement of all criminal laws, felonies and misdemeanors, within city limits to city police. In other places conflicts are lessened by leaving all misdemeanors

<sup>66</sup> 21 STAT. 374 (1881), 39 U. S. C. A. §692 (1928); U. S. GOVERNMENT MANUAL, p. 53.

<sup>67</sup> U. S. GOVERNMENT MANUAL, p. 19; see 42 STAT. 596 (1924), 21 U. S. C. A. §177 (1927).

<sup>68</sup> U. S. GOVERNMENT MANUAL, p. 16.

<sup>69</sup> N. C. CODE ANN. (Michie, 1935) §§3484-3488.

<sup>70</sup> These private or railway police are required to wear police badges, are paid by the companies securing their appointment, and may be discharged by the appointing companies by filing notice in the appointing offices. N. C. CODE ANN. (Michie, 1935) §§3484-3488.

within city limits to city police. In other places all agencies assert their power. Whether the law is paralyzed by friction or strengthened by coöperation depends on the good sense and good will of all law enforcing groups in overlapping units.

*Between Units Within the State.* Where the criminal flees to another county within the state the policemen, constable or sheriff has a choice of procedures: (1) he may take the warrant for arrest to any justice of the peace or other magistrate in the county where the accused person is thought to be, prove the handwriting of the magistrate or official who issued the warrant, procure the magistrate's indorsement thereon and himself arrest the criminal (though in practice usually the sheriff or some other officer goes with him to make the arrest); (2) he may send the warrant with proof of its validity—usually a certificate bearing the seal of the clerk of court—to the sheriff or other lawful officer in the county where the accused is thought to be, who is required by statute to procure the magistrate's indorsement and himself arrest the criminal;<sup>71</sup> (3) if he has a warrant charging a felony and is in hot pursuit he may follow the criminal across county lines without indorsement of the warrant and arrest him wherever he overtakes him;<sup>72</sup> (4) if he has no warrant and is in hot pursuit of a criminal who has committed a felony, he may follow him across county lines and arrest him wherever he overtakes him; (5) he may, where the criminal has violated the motor vehicle laws or committed highway robbery, bank robbery, murder or other crime of violence, call on highway patrolmen to follow and arrest him anywhere within the state irrespective of county lines;<sup>73</sup> (6) by the laws of 1935, the sheriff and his bonded deputies were authorized to dispense with the requirement of warrant indorsement when felonies were committed and to follow the accused, whether in sight or not, from the county where the crime was committed, and arrest him with or without warrant anywhere in the state.<sup>74</sup> Here again, whether the law is paralyzed by friction or strengthened by coöperation depends on the good sense and good will of law enforcing groups in adjoining units.

*Between States.* State and local law enforcing officers may not follow a fleeing criminal across the state line. They may call on the prosecuting attorney to file with the Governor an application for extradition, setting forth the name of the accused, the offense with which he is charged, the time, place, and circumstances of its committal, the place where the accused is thought to be, and that justice requires his arrest

<sup>71</sup> N. C. CODE ANN. (Michie, 1935) §4526.

<sup>72</sup> *Ibid.*

<sup>73</sup> N. C. CODE ANN. (Michie, 1935) §3846(000).

<sup>74</sup> N. C. CODE ANN. (Michie, 1935) §4544(1).

and return for trial.<sup>75</sup> The Governor then forwards to the Governor of the State where the criminal is thought to be, a copy of the application and indictment or complaint made to the magistrate along with a request for the apprehension of the accused.

State and local law enforcing officers may avoid the cumbersome and costly procedure of extradition where the fleeing criminal's action constitutes a violation of state and federal criminal law: the *theft of a motor vehicle* is a state crime in the beginning<sup>76</sup> but with its transportation across state lines it becomes a federal crime in the end;<sup>77</sup> *larceny* is a state crime in the beginning<sup>78</sup> but with the transportation of stolen goods valued at more than \$5,000 across state lines it becomes a federal crime in the end;<sup>79</sup> and so of *kidnaping*<sup>80</sup> when the kidnaped person is carried across state lines;<sup>81</sup> *prostitution*<sup>82</sup> when the woman is carried across state lines for immoral purposes;<sup>83</sup> *extortion*<sup>84</sup> when the mails or interstate communications are involved.<sup>85</sup> In all cases where an act violates both state and federal laws, state and local officers may call on federal law enforcing officers to take up the chase at the state line and continue it throughout the United States. The Federal Congress in 1934 opened further avenues for federal aid to state and local law enforcing officers by making it a federal crime punishable by fine up to \$5,000 or imprisonment up to five years for any person to flee from the state with the intent (1) to avoid prosecution for murder, kidnaping,

<sup>75</sup> The prosecuting attorney's application must be verified by affidavit, executed in duplicate, and accompanied by two copies of the indictment, or information and affidavit filed, or the complaint made to the magistrate. N. C. CODE ANN. (Michie, 1935) §4556(u). In cases of felony the state must pay extradition expenses; in all other cases, the county in which the crime is alleged to have been committed must bear the expenses. N. C. CODE ANN. (Michie, 1935) §4556(v).

<sup>76</sup> For general larceny laws, see N. C. CODE ANN. (Michie, 1935) §§4249-4252. Mere taking of motor vehicle for temporary use, without owner's consent, made a felony, N. C. CODE ANN. (Michie, 1935) §4262.

<sup>77</sup> *Supra* note 60.

<sup>78</sup> *Supra* note 76.

<sup>79</sup> *Supra* note 59.

<sup>80</sup> Prior to 1933, punishment for fraudulent or forcible kidnaping in North Carolina was limited to a maximum of twenty years. N. C. CODE ANN. (Michie, 1935) §4221. By P. L. N. C. 1933, c. 542, N. C. CODE ANN. (Michie, 1935) §422(a) kidnaping or holding for ransom (except in cases of a parent taking his child) is made punishable by life imprisonment.

<sup>81</sup> The "Lindbergh Kidnaping Act"—*supra* note 56.

<sup>82</sup> Under N. C. CODE ANN. (Michie, 1935) §§4357-4363, prostitution is defined as "the offering or receiving of the body for sexual intercourse for hire," or "the offering or receiving of the body for indiscriminate sexual intercourse without hire." Aiding or abetting in, soliciting for purpose of, using building for, or permitting building to be used for prostitution is made unlawful.

<sup>83</sup> The White Slave Traffic or Mann Act, *supra* note 57.

<sup>84</sup> To extort money or other valuable property by threatening to accuse or accusing or sending letter accusing or threatening to accuse another of a crime which may be punishable by death or imprisonment in the state's prison is made a misdemeanor. N. C. CODE ANN. (Michie, 1935) §4291.

<sup>85</sup> *Supra* note 62.

burglary, robbery, mayhem, rape, assault with a dangerous weapon, or extortion accompanied by threats of violence, or attempts to commit any of these crimes under the laws of the state from which he flees or (2) to avoid giving testimony in a criminal prosecution for felony in the state from which he flees.<sup>86</sup> Offenders, arrested under this statute, are returned to the federal judicial district in which the offense was committed without resort to the machinery of extradition. The statute goes farther than extradition has ever gone in bringing back witnesses to testify.

Nor is coöperation between federal state and local law enforcing officers confined to cases where the criminal flees across state lines. Larceny is a crime against the state and a crime against the federal government when the property is taken from a shipment of goods moving or intended to move in interstate commerce.<sup>87</sup> Bank robbery<sup>88</sup> and embezzlement<sup>89</sup> of bank funds are crimes against the state and crimes against the federal government when the bank is a national bank, member of the Federal Reserve System or insured in the Federal Deposit Insurance Corporation.<sup>90</sup> Likewise the same act may violate state<sup>91</sup> and federal liquor laws,<sup>92</sup> narcotic laws,<sup>93</sup> etc. These laws and others multiply the opportunities for city, county, state and federal law enforcing officers to work together. The power of these groups to arrest for crime within their respective territorial limits and their right of search incident thereto will be discussed in succeeding articles.

<sup>86</sup> 48 STAT. 782 (1934), 18 U. S. C. A. §408e (1935).

<sup>87</sup> *Supra* note 61.

<sup>88</sup> Particularly important, besides the statute covering felonious stealing, N. C. CODE ANN. (Michie, 1935) §4249, is the Act of 1929, P. L. N. C. 1929, c. 187, N. C. CODE ANN. (Michie, 1935) §4267(a) which provides that "any person . . . who, having in possession or with the use or threatened use of any firearms or other dangerous weapon . . . whereby the life of a person is endangered or threatened attempts to or does rob any place where there is a person in attendance shall be guilty of felony."

<sup>89</sup> N. C. CODE ANN. (Michie, 1935) §224(e) (misapplication, abstraction, or embezzlement of funds by bank officials or employees a felony).

<sup>90</sup> *Supra* note 58; 40 STAT. 972 (1918), 12 U. S. C. A. §592 (1927).

<sup>91</sup> With the statewide exception of beer and domestic wines (N. C. CODE ANN. (Michie, 1935) §3411(1-28), and the sale, etc. of whisky in certain counties (N. C. CODE ANN. (Michie, 1935) §3411(38-64), the manufacture, sale, possession, transportation, and advertisement or soliciting of orders for intoxicating liquors is unlawful. N. C. CODE ANN. (Michie, 1935) §3411(a-e).

<sup>92</sup> U. S. GOVERNMENT MANUAL, p. 16. Violations of federal alcohol revenue laws are also criminal offenses, 27 U. S. C. A. §§151-159, 201-211 (1935).

<sup>93</sup> The Uniform Narcotic Drug Act, enacted in 1935, sets forth the state regulations and provides that conviction or acquittal under federal narcotics acts shall bar prosecution under state laws. P. L. N. C. 1935, c. 477; N. C. CODE ANN. (Michie, 1935) §6686(1-28). For federal regulations, see 26 U. S. C. A. §§1040-1062 (1935).